

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California  
[www.spb.ca.gov](http://www.spb.ca.gov)

Public Session Location - Room 150

Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

NOVEMBER 1, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President  
Richard Carpenter, Member  
William Elkins, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. Staff met with Agency and Finance to discuss budget proposals for the 2001-02 fiscal year. Finance and Agency will support funding for extension of the merit requirements to local child support programs and expansion of the psychological testing program. Staffing for Los Angeles will go forward as a policy issue.
- B. At the request of Senator Burton State Personnel Board staff will begin a review of personnel actions

in the Department of Veterans Affairs in November 2000.

- C. The Executive Officer will serve on an Interagency Agency Task Force to make funding recommendations to address the accessibility of state facilities to persons with a disability. He will also serve on a human resources subcommittee for the Department of Social Services.
- D. State Personnel Board staff met with representatives of the departments, unions and advocate organizations to obtain input for the strategic plan.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Jesse Brown v. State Personnel Board (SPB Dec. No. 99-02) - Court of Appeal, First Appellate District, has set an oral argument in this case for November 14, 2000 in San Francisco.
- B. ACSS v. SPB - Oral argument scheduled before the Third District Court of Appeal for October 17, 2000 was continued because of illness of counsel.
- C. Pamela King v. State Personnel Board (SPB Dec. 99-11)  
Petition for writ of mandate challenging Board's decision in this case has been filed.

State Employee Mediation Program

- A. Informational meeting of October 23, 2000 was well received and well attended. Volunteer mediator training is scheduled for January 8-12, 2001.
- B. Mediation Program Coordinator position has been filled. Matilda Bannerman-Richter, currently of the

Department of Developmental Services, will begin work on December 1, 2000. We are very excited to have her on board.

- C. Larry Hoover and Elise Rose continue to make presentations at executive staff meetings regarding the mediation program. Last week they attended CalSTRS executive staff meeting. CYA and the Department of Aging are scheduled for presentations later this month.

Appeals Division

- A. The Administrative Law Judges annual conference will be scheduled to coincide with either the January or February Board meeting.

4. PERS UPDATE - Sean Harrigan

The Board was advised of the following:

- A. The Board of Administration voted to divest itself of all tobacco holdings. Staff will make recommendations to achieve this objective with minimal impact on the fund.
- B. The next PERS meeting will include a discussion of emerging markets and the potential of hiring a firm to conduct evaluation of the foreign countries in such areas as worker rights, democracy, freedom of the press, human rights and environmental issues.
- C. A presentation was made at the last PERS meeting regarding the challenges facing health and welfare. The Board is looking at options for addressing the under funding of PERS Care and PERS Choice.
- D. PERS has established an Ad Hoc committee chaired by member Harrigan to examine internal governance issues and Board member support.

5. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. Walter Vaughn, Linda Brooks and Judy Balmain will be meeting with State and Consumer Services Agency to discuss the Board's legislative proposals on November 9, 2000.
- B. Laura Aguilera and Judy Balmain are going to meet with the Bilingual Coalition to discuss the status of the study bilingual services.
- C. Meetings will be set up soon to discuss the Board's legislative proposals with interested state departments and unions.
- D. The Board was made aware of changes in chairmanships of key committees in the legislature.

6. ORAL ARGUMENT

Oral argument in the matter of DALE WATKINS CASE  
NO. 99-1548. Appeal from demotion.  
Department of Fish and Game.

Persons Participating:

Steven Bassoff, Attorney at Law, representing appellant  
Joan Branin, Labor Relations Counsel, Department of  
Personnel Administration

ACTION: Submitted

7. ORAL ARGUMENT

Oral argument in the matter of DIANA HENNING CASE  
NO. 98-4118/99-0772. Appeal from official  
reprimand/medical termination, demotion and transfer.  
Department of Corrections.

Persons Participating:

Linda Deos, Attorney at Law, representing appellant

Chris Thomas, Attorney at Law, representing Department of Corrections

ACTION: Submitted

8. REGULATIONS AND GUIDELINES FOR UPWARD MOBILITY PROGRAMS  
The proposed regulations and guidelines will provide departments with necessary procedural guidance to help ensure that upward mobility programs are consistently and fairly administered.

Persons Participating:

Steve Unger, Staff, California State Personnel Board  
Ted Edwards, Staff, California State Personnel Board  
Rosmaire Duffy, Senior Labor Relations Representative,  
California State Employees Association  
Robin Corralejo, EEO Officer, CalPERS and Chairperson,  
California Civil Rights Officers Council  
Sharon Robinson, EEO Specialist, Consumer Affairs

ACTION: On November 1, 2000, Board adopted staff's  
recommendation

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

9. THE DEPARTMENT OF DEVELOPMENTAL SERVICES HOSPITAL WORKER (SAFETY) PROPOSES TO ESTABLISH THE CLASSIFICATION OF HOSPITAL WORKER (SAFETY) WITH A 12-MONTH PROBATIONARY PERIOD AND TO DESIGNATE IT AS "SENSITIVE" FOR THE PURPOSE OF PRE-EMPLOYMENT DRUG TESTING; TO ESTABLISH THE CLASSIFICATION OF SECURITY GUARD WITH A SIX-MONTH PROBATIONARY PERIOD AND TO DESIGNATE IT AS "SENSITIVE" FOR THE PURPOSE OF PRE-EMPLOYMENT DRUG TESTING.

Persons Participating:

Patricia Embly, Staff, California State Personnel Board  
Rosmaire Duffy, Senior Labor Relations Representative,  
California State Employees Association  
Virginia Lee Rose, Assistant Legislative Coordinator,  
Department of Developmental Services

ACTION: On November 1, 2000, Board adopted staff's  
recommendation

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

BOARD ACTIONS

10. STATE PERSONNEL BOARD SUMMARY MINUTES OF OCTOBER 17, 2000

ACTION: Adopted on November 1, 2000.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

11. ACTION ON SUBMITTED ITEMS

ACTION: (See pages 11-12)

12. ADMINISTRATIVE LAW JUDGE CASES

On November 1, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

CHIEF COUNSEL RESOLUTION

JOHN HABERMAN, CASE NO. 00-2592

Appeal from suspension

Department of Corrections

ACTION: Approving stipulation for settlement

PROPOSED DECISIONS

CHARLES CARMICHAEL, CASE NO. 99-4273

Appeal from demotion

Department of Corrections

ACTION: Demotion revoked

JACK GAINES, CASE NO. 00-1641

Appeal from ten working days suspension

Department of Transportation

ACTION: Suspension modified

INTERNATIONAL UNION OF OPERATING ENGINEERS,  
CASE NO. 00-2290 (PSC No. 00-02)  
Appeal from Executive Officer's decision  
approving cost saving contract between the  
California Science Center and Swayzer's Inc.  
ACTION: Contract disapproved

TIMOTHY P. MOORE, CASE NO. 00-1705  
Appeal from Dismissal  
San Diego State University  
ACTION: Dismissal sustained

REX GEORGE MOORES, CASE NO. 99-2286  
Appeal from Dismissal  
Department of Corrections  
ACTION: Dismissal sustained

DEBORAH STALEY, CASE NO. 99-4820  
For determination of back salary, benefits and interest  
after reinstatement  
Department of the Food and Agriculture  
ACTION: Back salary awarded

CHARLES O. REVIS, CASE NO. 99-2726  
Appeal from Dismissal  
Employment Development Department  
ACTION: Dismissal modified

13. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: (See pages 13-15)

14. MISCELLANEOUS APPEALS DIVISION CASES  
Withholds, Voided Appointments, Rule 211 Appeals,  
Petitions for Rehearing)  
On November 1, 2000, the Board adopted the following  
decisions presented by Linda Brooks, Assistant Executive  
Officer, California State Personnel Board.  
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

WITHHOLD CASES

November 1, 2000

- A. TANISHIA HUBBARD, CASE NO. 00-0405  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED
- B. IRRY A. MARK, CASE NO. 00-0676  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DENIED
- C. ALBERTO J. SOLORIO, CASE NO. 00-1249  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED
- D. ERIC GUY NEVAREZ, CASE NO. 00-1435  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DISMISSED

15. MEDICAL APPEALS

On November 1, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. REGINALD L. CURRY, CASE NO. 00-2123  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DENIED
- B. DALE LYONS, CASE NO. 00-1975  
Classification: Correctional Officer, DOC Department of Corrections  
ACTION: DENIED
- C. LEE MARVIN, CASE NO. 00-2105  
Classification: Youth Correctional Counselor  
Department of the Youth Authority  
ACTION: DENIED
- D. JENECE POREE, CASE NO. 00-1680  
Classification: Correctional Officer, DOC  
Department of Corrections  
ACTION: DENIED



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- E. CHERYL BLACK, CASE NO. 00-1834  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DISMISSED
- F. JULIE CUTBIRTH, CASE NO. 00-2796  
Classification: Correctional Officer  
Department of the Youth Authority  
ACTION: DISMISSED
- G. WILLIAM KAUPELIS, CASE NO. 00-1923  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DISMISSED

16. EXAMINATION APPEALS

On November 1, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. JAMES W. BROWN, CASE NO. 00-2054  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

17. NON-HEARING CALENDAR

On November 1, 2000, the Board adopted items A-C. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. DEPUTY LEGISLATIVE COUNSEL SERIES  
The Legislative Counsel Bureau proposes consolidation of the Deputy Legislative Counsel I and II into a single deep class with a 12-month probationary period; establishment of alternate range criteria 427; and specification revisions for the Deputy Legislative Counsel III and IV.

November 1, 2000

B. DEPUTY COMMISSSIONER SERIES

The Department of Real Estate proposes to retitle the classes of Deputy Commissioner I and III, Department of Real Estate; to add range D to the deep class of Deputy Commissioner; and to abolish the class of Deputy Commissioner II, Department of Real Estate.

C. INDUSTRIAL RELATIONS COUNSEL SERIES

The Department of Industrial Relations proposes the establishment of the Industrial Relations Counsel IV classification with a 12-month probationary period; and revisions to the series specification for the Industrial Relations Counsel.

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

1. PROGRAM MANAGER, ENERGY CONSERVATION

The Department of General Services proposes to allocate the above position to the CEA category.

The Program Manager, Energy Conservation will guide and direct the Department of General Services in developing and implementing peak electrical load by 250 MW by June 1, 2001, as set forth in Executive Order D-15-00. The department indicates that the position will be at the second organizational level and will report to the director.

2. EXECUTIVE ADVISOR TO THE DIRECTOR

The Department of General Services proposes to allocate the above position to the CEA category.

The Executive Advisor to the Director will act as a key policy advisor to the director on matters of critical concern to the department. The department indicates that the position will be at the second organizational level and will report to the director.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

November 1, 2000

1. CHIEF OF LEGISLATION

The California Conservation Corps request to allocate the above position to the CEA category has been approved effective October 5, 2000.

2. DEPUTY ASSISTANT SECRETARY FOR BOND & GRANT BONDS IMPLEMENTATION

The California Resources Agency's request to allocate the above position to the CEA category has been approved effective October 11, 2000.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

NONE PRESENTED

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

1. DIRECTOR, FILING SYSTEMS BRUEAU

The Franchise Tax Board's request to refill the above position has been approved effective September 28, 2000.

2. CHIEF, SPECIAL PROJECT BUREAU

The State Controller's Office's request to refill the above position has been approved effective September 28, 2000.

ACTION: Noted

A D J O U R N M E N T

November 1, 2000

SUBMITTED

1. M. BRENT EDWARDS, CASE NO. 99-4422. Appeal from constructive termination. Department of Mental Health. (Oral argument held September 6, 2000).

NO ACTION

2. GABRIEL HERNANDEZ, CASE NO. 98-2868. Appeal from dismissal. Department of Mental Health. (Oral argument held September 6, 2000).

NO ACTION

3. WILLIAM SULLIVAN, CASE NO. 99-3904. Appeal from dismissal. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

4. CHRISTOPHER RAMOS, CASE NO. 99-0458P. Appeal from 5 percent reduction in salary for 6 months. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

5. REGINALD SMITH, CASE NO. 00-0312. Appeal from 30-calendar day's suspension. Department of Corrections. (Oral argument held October 3, 2000).

NO ACTION

6. MICHAEL CALLOWAY, CASE NO. 99-1041. Appeal from dismissal. Department of Developmental Services. (Oral argument held October 4, 2000).

ACTION: On November 1, 2000, adopted Board decision revoking dismissal and granting back pay.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

7. ERNEST LEON, CASE NO. 99-1078. Appeal from dismissal. Department of Corrections. (Oral argument held October 4, 2000).

ACTION: On November 1, 2000, adopted Board decision sustaining dismissal.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.



\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 1, 2000.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.